

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 504 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
- 1 to 5 -No

MOZAMMEL HAQUE ANSWARALI SHEIKH

Versus

STATE OF GUJARAT

Appearance:

PARTIES-IN-PERSON for Petitioners
MR DN PATEL, APP for Respondent No. 1

CORAM : MR.JUSTICE R.P.DHOLAKIA
Date of decision: 15/10/98

C.A.V. JUDGEMENT

This Criminal Revision Application has been preferred by the applicants through the Jail Superintendent, District Jail, Junagadh to set aside the order passed by the learned Addl. Sessions Judge, Junagadh in Cri. Misc. Appln. No.221 of 1998 and to release the applicants on bail.

2. The matter has come up for hearing and it was heard in the absence of applicants as they have chosen not to remain present before the Court.

3. The short facts are that the present applicants were arrested for the alleged possession of white powder (heroin) weighing 870 gms. and a revolver on 25-1-1998 after a raid was carried out by Police Inspector, Special Crimes Squad, Junagadh and Sub-Divisional Police Officer and a complaint was lodged to that effect. A sample of white powder (heroin) was sent to State Forensic Science Laboratory for analysis. The opinion of the Regional Forensic Laboratory, Junagadh is that the said muddamal does not contain any narcotic substance but it contains Urea. Since the opinion is negative, Police has filed 'C' summary and Shri Rana, P.I., Una Police Station filed an affidavit on 29-4-1998 before the Court below stating that accused may be released on bail. However, on 5-6-98, learned Public Prosecutor filed an application stating that accused should not be released on bail till the report of second sample, which has been sent to the Central Forensic Science Laboratory, is received. Learned Addl. Sessions Judge, Junagadh has passed an order on 19-6-1998 that sample from the muddamal seized by the Una Police in Crime Reg. No.III 5020/98 be sent to Central Forensic Science Laboratory and only after that, bail application be decided. As there was no progress, the applicant preferred an application bearing No.221 of 1998 before the Sessions Judge, Junagadh which was rejected by the Court on 11-7-1998, against which, the present application is preferred. It is submitted that no muddamal was produced before the Court for the second sample. It is also submitted by the applicants that they are innocent, they have not committed any offence and they are falsely involved.

4. I have heard the learned APP for the State, Mr.D.N.Patel and also verified the record and proceedings.

5. It is transpired from the record and proceedings that the Court below had ordered to send the muddamal to Central Forensic Science Laboratory for analysis. According to learned APP, the report of the second analysis has not come so far. In view of the above circumstances, it is not possible to decide the matter on merits at this stage. Only remedy available before this Court is to dispose of the matter with certain directions. So, the matter can be decided again on merits. Hence, I pass the following order:

This Criminal Revision Application is rejected.
It is directed that the applicants-accused are at liberty to file fresh application before the Court below, i.e. Sessions Court and on such filing of the application, the Sessions Court is directed to decide the matter on merits without being influenced by the fact that the orders have been passed by this Court as well as by the Court below. Office is directed to inform the applicants-accused accordingly, who are in jail, as because they are parties-in-person.

(R.P.DHOLAKIA,J.)

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